



25 APR 2007

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In re Application of
MARQUE et al.
U.S. Application No. 10/576,602
PCT No.: PCT/FR04/02710
Int. Filing Date: 22 October 2004
Priority Date: 23 October 2003
Attorney Docket No.: P29801
For: HOLDING DEVICE FOR A
RESPIRATORY MASK

DECISION ON REQUEST

This decision is issued in response to applicants' COVER LETTER filed 02 January 2007, which is being treated as a request under 37 CFR 1.181 to vacate the Notification of Missing Requirements (PCT/DO/EO/905) mailed 31 October 2006. No petition fee is due.

BACKGROUND

On 22 October 2004, applicants filed international application PCT/FR04/02710 which claimed a priority date of 23 October 2003 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 May 2005. The international application named Pierre-Louis Marque; Martine Boisseau; Linda Rumpel; Elisabeth Fournier; and Jean-Luc Godet as applicants/inventors. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 23 April 2006.

On 21 April 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a copy of the international application, and a declaration.

On 31 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form (PCT/DO/EO/905) requiring submission of an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date. Additionally, the Notification of Missing Requirements indicated that a translation of international application and the surcharge for filing the translation of international application later than thirty months after the priority date were required.

On 02 January 2007, applicants filed COVER LETTER which stated, "the executed declaration submitted April 21, 2006 is fully in compliance with 37 CFR 1.497(a)-(b). . . and that the names listed on the declaration are the same as those identified in the International Application." Additionally, applicants submitted a translation of the international application.

DISCUSSION

The declaration filed on 21 April 2006 is not acceptable under 37 CFR 1.497 because it is not properly executed by the inventors of record. Specifically, the name of the second, third, and fourth inventors on the declaration (Martine Boisseau épouse Daney; Linda Rumpel épouse Kisch; and Elisabeth Fournier épouse Emery) does not correspond to the name of record for these inventors, Martine Boisseau; Linda Rumpel; and Elisabeth Fournier. Because this difference in the inventor's names involve more than a mere typographical error, a petition under 37 CFR 1.182 is required.

Section 605.04(c) of the Manual Of Patent Examining Procedure ("MPEP") sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name where, as apparently is the case here, an inventor's name has been changed after the filing of the application. According to the MPEP, such a petition "must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order."

Further, the declaration does not comply with 37 CFR 1.69 in that it has not been fully translated into English. The translation of the body of the declaration is acceptable since applicants have used the French-English declaration form provided by the USPTO, however, the names of the second, third, and fourth inventors contain the word "épouse" which has not been translated. (See 37 CFR 1.69(b). Therefore, a newly executed declaration by all the inventors is required.

CONCLUSION

Applicants' request is **DISMISSED**.

The declaration filed on 21 April 2006 is not acceptable under 37 CFR 1.497(a)-(b) for failure to properly identify the current inventors of record. Further, the declaration is not acceptable under 37 CFR 1.69.

A proper response, as discussed above, must be filed within **ONE (1) MONTH** of the date of mailing of this notification. No extensions of this time limit may be obtained under 37 CFR 1.136(a), but the period for response set forth in the Notification of Missing Requirements may be extended up to a maximum of five months.

Any further correspondence with respect to this matter should be addressed to:
Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box
1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the
attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "Anthony Smith", with a stylized flourish at the end.

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